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HUMAN RIGHTS QUESTIONS

Letter dated 16 June 1993 from the Chargé d'affaires a.i. of the Permanent Mission of Indonesia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a statement by His Excellency Mr. Ali Alatas, Minister for Foreign Affairs and Head of the Delegation of the Republic of Indonesia, before the second World Conference on Human Rights in Vienna, on 14 June 1993 (see annex).

I should be grateful if you would have the text of the present letter and its annex circulated as an official document of the General Assembly under item 115 of the preliminary list.

(Signed) Witjaksana SOEGARDA
Chargé d'affaires a.i.
Ambassador/Deputy Permanent Representative

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ANNEX

Statement by His Excellency Mr. Ali Alatas, Minister for Foreign Affairs and Head of the Delegation of the Republic of Indonesia, before the second World Conference on Human Rights at Vienna, on 14 June 1993

Indonesia deems it a singular privilege to participate in this second World Conference on Human Rights for it constitutes another landmark event in our long journey to arrive at a world order that is worthy of the spiritual kinship of all humankind.

It has been 25 years since the First World Conference on Human Rights was held in Teheran and 45 years since the United Nations General Assembly proclaimed the Universal Declaration of Human Rights which laid down the inalienable rights vested in all persons and all peoples by the simple virtue of their being human. This is indeed an opportune time for the United Nations again to convene a World Conference to evaluate the progress we have made since then, to identify the obstacles and challenges to further progress, and to devise the ways to overcome them.

Allow me, therefore, to express Indonesia's deep appreciation to the Government and people of Austria for hosting this Conference, for the gracious hospitality extended to my Delegation, and for the excellent arrangements made to ensure the efficiency of our proceedings. May I add that this Conference could not have had a more appropriate setting than this historic city of Vienna, cradle of some of the world's greatest philosophers and composers, and in more recent times, the cultural and intellectual bridge between the East and the West.

Indonesia comes to this Conference with a profound awareness of the vital stakes involved in the outcome of our deliberations, for we are a developing nation which recently regained its national independence

and therefore knows only too well how it is to hunger and to struggle for the most fundamental of human rights: the freedom to be free, the freedom from want, ignorance, social injustice and economic backwardness. We are also here as a country from Asia, that vast continent which, over the millennia, has given to the world its major religions, the wisdom of its philosophical thoughts and the rich diversity of its age-old cultures and civilizations. Hence, we do realize the constructive contribution that we can and should make to this World Conference. As the State currently holding the Chair of the Non-Aligned Movement, we are also entrusted to reflect the consensus position on human rights taken by 108 member states of the Movement which met in a Summit Conference in Indonesia last year, a position that is embodied in the Jakarta Message and the Final Documents which emanated from that Conference . And lastly , but by no means least important, we are here as a responsible member of the United Nations and as such fully conscious of the commitment of all members to adhere to the Charter of the United Nations and to the Universal Declaration of Human Rights.

We are therefore constrained to voice our concern at the recent spate of international media reports that tend to give the impression as if the success of this Conference is being threatened by a clash of values between the developed countries of the North and the developing countries of the South, by a confrontation between the perceived universal, mostly Western, concept of human rights that stresses political and civil rights, and the purported "dissident" view, particularly of Asian countries , which emphasizes the indivisibility of all categories of rights and the need to take into account

the diversity of socio-economic, cultural and political realities prevailing in each country.

This depiction is not only erroneous but also unwarranted and therefore counterproductive. Speaking for Indonesia and, I believe, also for the other Asian countries, signatories to the recently adopted Bangkok Declaration, and the Non-Aligned Countries which all subscribe to the provisions on human rights as contained in the Final Documents of the Jakarta Summit, I can say in all truthfulness that we have not come to Vienna to engage in confrontation, nor to advocate an alternative concept of human rights, based on some nebulous notion of "cultural relativism," as spuriously alleged by some quarters.

On the contrary, as clearly stated in the Bangkok Declaration on Human Rights, we recognize that the observance and promotion of human rights "*should be encouraged by cooperation and consensus and not through confrontation and the imposition of incompatible values.*"

Indeed, there can and should be no room for confrontation or acrimony, considering that we all proceed from the same basic premises: our shared view on the universal validity of basic human rights and fundamental freedoms; our common adherence to the Universal Declaration of Human Rights and our commitment to the Charter of the U.N. which requires us to cooperate in promoting respect for human rights for all without distinction as to race, sex, language or religion.

If this is the case, then I cannot see how and why anyone can have any quarrel with the central proposition we have always advanced, namely that in considering human rights issues and in promoting and protecting these rights, we should all base our approaches and actions

on what the U.N. Charter enjoins us to do rather than on the particular perceptions and preferences of any one country or group of countries. While the question of human rights has of late become the focus of heightened international concern, it is, of course, not a new issue. Since 1945, human rights have been enshrined in the Charter of the U.N. and since then our Organization has developed a growing corpus of covenants, conventions, declarations and other instruments which constitute a veritable International Bill of Human Rights. In the process, commonly agreed conceptual perceptions, principles, procedures and mechanisms have been established within the United Nations System. I therefore believe and it is, as I earlier stated, our central proposition that the promotion and protection of human rights will be far better served if all of us were to adhere more conscientiously to those common understandings and procedures as already agreed upon over the years rather than be diverted into a futile debate over misperceived alternatives or dichotomies.

Mr. President,

Neither can it be said that the present concept of human rights, the theoretical basis of which was first conceived and developed in the West, is unknown or unappreciated in the countries of Asia or Africa. We in Indonesia do know how this concept sprang from the libertarian writings of such European political and legal thinkers as Thomas Hobbes, John Locke, Montesquieu, Jean Jacques Rousseau, Cesare Beccaria and John Stuart Mill– and from their various postulations and juridical constructions of a "social contract" and of the inherent, "natural" rights of individuals in facing the powers of the State and of

governmental authority. These were the ideas that eventually gave birth to the modern state and the attendant civil and political rights of the citizen. But these were also among the same ideas that inspired the struggle of many new nations of Asia and Africa to cast off the yoke of colonialism, just as they helped ignite, during an earlier time, the French and American Revolutions.

Thus, if today there appears to be still a debate on the concept of human rights, it is not so much from any contention between East and West or between North and South but, it seems to me, the lingering echo of an earlier clash between two Western traditions, between the principle of individual liberty which, for example, Thomas Jefferson passionately espoused and the principle of a strong, lawful authority which Alexander Hamilton just as passionately advocated.

On the rights of the individual as measured against those of the State, the view of the latter tradition is that:

> "*When it comes to a decision by a Head of State upon a matter involving its life (*the State's), *the ordinary rights of individuals must yield to what he deems the necessities of the moment.*"

These are not the self-justifying words of some leader of the developing world. They constitute the considered view, in the Hamiltonian tradition, of one of America's most perceptive judicial minds, Justice Oliver Wendell Holmes.

I believe, however, that in essence the conflict between these two traditions or principles has some time ago already been resolved and for our age the writer Walter Lippmann summed its resolution in the following terms:

*"The conflict of the two principles can be resolved only by uniting them. Neither can live alone. Alone, that is, without the other, each is excessive and soon intolerable. Freedom, the faith in man's perfectibility, has always and will always lead through anarchy to despotism. Authority, the conviction that men have to be governed and not merely let loose, will in itself always lead through arbitrariness and corruption to rebellion and chaos. Only in their union are they fruitful. Only freedom which is under strong law, only strong law to which men consent because it preserves freedom, can endure."*

It is certainly not my intention, Mr. President, to dwell on the past or to indulge in theorizing, for that is decidedly not the purpose for which we are gathered here today. But the point I do wish to make is that while we in the developing world do understand and appreciate the genesis of the thinking and motivation underlying present-day Western policies and views on human rights, we should at least expect similar understanding and appreciation of the historical formation and experiences of non-Western societies and the attendant development of our cultural and social values and traditions. For many developing countries, some endowed with ancient and highly developed cultures, have not gone through the same history and experience as the Western nations in

developing their ideas on human rights and democracy. In fact, they often developed different perceptions based on different experiences regarding the relations between man and society, man and his fellow man and regarding the rights of the community as against the rights of the individual. In saying so, it is not my intention to therefore propose a separate or alternative concept on human rights. But this is a call for greater recognition of the immense complexity of the issue of human rights due to the wide diversity in history, culture, value systems, geography and phases of development among the nations of the world. And therefore this is also a call addressed to all of us to develop a greater sensitivity toward this complexity-- and greater humility and less self-righteousness in addressing human rights issues.

Mr. President,

What then are the commonly agreed understandings and perceptions to which I referred earlier and which should appropriately guide us in addressing the issue of human rights? Allow me to highlight a few and comment on them from the point of view of a Non-Aligned, developing country like Indonesia.

The universal validity of basic human rights and fundamental freedoms is indeed beyond question. But the United Nations Charter has rightly placed the question of their universal observance and promotion within the context of international cooperation. And I am sure we all agree that international cooperation presupposes as a basic condition respect for the sovereign equality of states and the national identity of peoples. In this spirit of cooperation and mutual respect, there should be no place for the practice of exchanging unfounded accusations or

preaching self-righteous sermons to one another. In a world where domination of the strong over the weak and interference between states are still a painful reality, no country or group of countries should arrogate unto itself the role of judge, jury and executioner over other countries on this critical and sensitive issue of common concern to the entire international community.

Human rights questions are essentially ethical and moral in nature. Hence, any approach to human rights questions which is not motivated by a sincere desire to protect these rights but by disguised political purposes or, worse, to serve as a pretext to wage a political campaign against another country, cannot be justified.

Human rights are vital and important by and for themselves. So are efforts at accelerated national development, especially of the developing countries. Both should be vigorously pursued and promoted. Indonesia, therefore, cannot accept linking questions of human rights to economic and development cooperation, by attaching human rights implementation as political conditionalities to such cooperation. Such a linkage will only detract from the value of both.

On such conditionalities, the Leaders of the Non-Aligned Movement, during their Tenth Summit in Jakarta last year, emphasized that:

> *"...any attempt to use human rights as a condition for socio-economic assistance, thus sidelining the relevance of economic, social and cultural human rights, must be rejected. No country should use its power to dictate its concept on human rights or to impose conditionalities on others."*

It is now generally accepted that all categories of human rights--civil, political, economic, social and cultural, the rights of the individual and the rights of the community, the society and the nation-- are interrelated and indivisible. This implies that the promotion and protection of all these rights should be undertaken in an integral and balanced manner and that inordinate emphasis on one category of human rights over another cannot be justified. Likewise, in assessing the human rights conditions of countries, and of developing countries in particular, the international community should take into account the situation in relation to all categories of human rights.

This, I believe, is what Secretary-General Boutros Boutros-Ghali meant when on the occasion of Human Rights Day 1992, he stated:

> *"Full human dignity means not only freedom from torture but also freedom from starvation. It means freedom to vote as it means the right to education. It means freedom of belief as it means the right to health. It means the right to enjoy all rights without discrimination."*

This is also consistent with the basic principles contained in the Universal Declaration of Human Rights. Article 29 of that Declaration addresses two aspects that balance each other: On the one hand, there are principles that respect the fundamental rights and freedoms of the individual; on the other, there are stipulations regarding the obligations of the individual toward the society and the state.

It is clear, therefore, that implementation of human rights implies the existence of a balanced relationship between individual human rights and the obligations of individuals toward their community. Without such

a balance, the rights of the community as a whole can be denied, which can lead to instability and even anarchy, especially in developing countries. In Indonesia, as in many other developing countries, the rights of the individual are balanced by the rights of the community, in other words, balanced by the obligation equally to respect the rights of others, the rights of the society and the rights of the nation. Indonesian culture as well as its ancient well-developed customary laws have traditionally put high priority on the rights and interests of the society or nation, without however in any way minimizing or ignoring the rights and interests of individuals and groups. Indeed, the interests of the latter are always fully taken into account based on the principles of "*musyawarah-mufakat*" (deliberations in order to obtain consensus), which is firmly embedded in the nation's socio-political system and form of democracy.

Indeed, Mr. President, we in Indonesia, and perhaps throughout the developing world as well, do not and cannot maintain a purely individualistic approach towards human rights for we cannot disregard the interests of our societies and nations. We hold that, flowing from the innate quality of the human being as an individual person and at the same time as a member of the community, his or her existence, rights and duties, can only become meaningful within the social context of the community and where, in the words of Article 29 of the Declaration of Human Rights, the free and full development of his or her personality becomes possible.

In promoting human rights in developing countries, including our own, it should also be borne in mind that there are other fundamental rights and concerns besides certain civil and political freedoms to which

equally urgent attention should be devoted, such as the right of the vast majority of the people to be free from want and from fear, from ignorance, disease and backwardness. At the same time, most developing countries are presently at a stage of development which necessitates increasing focus on the human being as both the principal agent and ultimate beneficiary of development, thus requiring primary efforts to be devoted to human resources development. This is why developing countries attach such great importance to the right to development and to the right to pursue development in an environment of peace and national stability.

The right to development has been recognized in the UNGA Declaration of 1986 and in UNGA Resolution 41/128. Article 1 of that Declaration clearly states that the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and economic development in which all human rights and fundamental freedoms can be fully realized.

While human rights are indeed universal in character, it is now generally acknowledged that their expression and implementation in the national context should remain the competence and responsibility of each government. This means that the complex variety of problems, of different economic, social and cultural realities, and the unique value systems prevailing in each country should be taken into consideration. This national competence not only derives from the principle of sovereignty of states, but also is a logical consequence of the principle of self-determination.

In this context, I fully concur with the view expressed by former Secretary-General Javier Pérez de Cuéllar in his 1991 annual Report that:

> *"the principle of non-interference with the essential jurisdiction of States cannot be regarded as a protective barrier behind which human rights can be massively or systematically violated with impunity."*

But, as he also observed in the same Report,

> *"maximum caution needs to be exercised lest the defense of human rights becomes a platform for encroaching on the essentially domestic jurisdiction of States and eroding their sovereignty. Nothing would be a surer prescription for anarchy than an abuse of this principle."*

Indonesia is also of the firm view that in evaluating the implementation of human rights in individual countries, the characteristic problems of developing countries in general, as well as the specific problems of individual societies, should be taken fully into account. In other words, to be objective and credible, the complete picture rather than the partial view should be presented. It is important to note that the United Nations General Assembly has acknowledged these requirements as evidenced by its adoption in 1977 of resolution 32/130 which *inter alia* reads as follows:

> Preambular Paragraph 3: *"Convinced that such cooperation should be based on a profound understanding of the variety of problems existing in*

*different societies and on the full respect for their economic, social and cultural realities."*

Operative Paragraph 1, sub-para d: *"Consequently, human rights questions should be examined globally, taking into account both the overall context of the various societies in which they present themselves as well as the need for the promotion of the full dignity of the human person and the development and well-being of the society."*

For its part, Indonesia has consistently endeavoured to adhere to the humanitarian precepts and fundamental human rights and freedoms as embodied in its State Philosophy, the *Pancasila*, its 1945 Constitution and its relevant national laws and regulations. As a member of the UN and of the Commission on Human Rights, Indonesia will continue to work vigorously to ensure that human rights are promoted and protected on the basis of universality, objectivity, indivisibility and non-selectivity.

Mr. President,

The international scene has changed profoundly since the first World Conference on Human Rights in Tehran 25 years ago. Scientific and technical progress has triggered the processes of globalization, cross-cultural interlinks and the internationalization of value systems. The Cold War and the bipolar East-West conflict have ended. The tumult of their attendant global corollaries-- ideological rivalry, bloc politics, nuclear brinkmanship and the scramble for spheres of

influence-- is fading away. The issue of human rights has ceased to be a bloc controversy and once again it has acquired a life of its own in the consciousness of the international community.

The desire of the international community to promote human rights is manifested by the fact that even during the period of greatest tension between East and West significant and meaningful progress was nevertheless made. The instruments adopted during this period have broadened the scope and dimensions of human rights, further extending protection to all peoples. In recent times the concept of human rights has come to incorporate the rights of women, of children, of migrant workers and their families, as well as the right to development. This year, we observe the International Year of the World's Indigenous People as a further example of the scope to which human rights have been extended.

But there is, unfortunately, still a wide gap between international aspirations on human rights and the reality of their implementation. For in various parts of the world the human rights of millions of people are still in grave jeopardy. Human rights cannot thrive in a world burdened with widespread poverty, environmental crises and rapid population growth, by unresolved disparities and inequities in the world economic system and a steadily widening gap between the rich and the poor. And in the terrifying surge of national, ethnic and religious conflicts, human rights are among the first victims. Indonesia, therefore, joins the countries-signatories to the Bangkok Declaration and the Tunis Declaration in condemning the persistence of institutionalized racism in the form of *Apartheid* in South Africa, and the continued massive and systematic violations of the fundamental national and human rights of

the Palestinian people. I should also like to cite the painful irony and incongruence of this Conference discussing the fundamental rights and freedoms of human beings and nations while a few hundred kilometers from here an entire nation is being subjected to brutal aggression, mass murder, systematic rape and the inhuman practice of ethnic cleansing.

It has not helped the cause of promoting and protecting human rights that the way in which concerns on human rights are expressed at the international level has so far failed to reflect the immense political, economic, social and cultural diversity of the world we live in. When this diversity is disregarded, as it often is, then we are confronted by imbalances in such forms as politicization, selectivity, double standards and discrimination. As a result, some countries have too often become the target of unfair censure and trial by prejudicial publicity. On the other hand, there are countries that deserve opprobrium but are spared from censure for reasons that have nothing to do with human rights.

To improve the universal promotion and the protection of human rights, we have to address these imbalances through the adoption of an integrated and balanced approach that takes into account the diversity of the societies in which human rights are to be observed and implemented; the indivisibility and non-selectivity of all human rights; and the inherent relationship between development, democracy, social justice and the universal enjoyment of human rights.

Endeavours towards the establishment of uniform international human rights norms should go hand in hand with sincere efforts to work towards a just and equitable world economic order. Above all, the misuse of human rights as an instrument of political pressure or of a politically motivated campaign should be eschewed. And this applies

equally to governments, international organizations and NGOs involved in the promotion and protection of human rights.

We are also called upon in this Conference to consider improvements in the international mechanisms for the promotion and protection of these rights. In this context, I should like to emphasize the need to rationalize the United Nations human rights mechanisms in order to enhance its effectiveness and efficiency and so that duplication is avoided in the work of the Commission itself, the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, the treaty bodies and whatever parallel mechanisms there may be. We also perceive a need for the Commission on Human Rights to streamline the volume and review the content of its documentation, to reorganize its agenda and to restructure its debate and for the various Special Rapporteurs and Representatives to improve their ways of evaluating information from individuals, NGOs and Governments so that their exercises may become more credible.

Indonesia would also wish to underscore the importance of the work of the Human Rights Centre. Member countries which lack adequate national infrastructures for human rights promotion and protection should be able to benefit from the Centre's programme of advisory services and technical assistance in the setting up and development of such infrastructures. The Centre should also be of assistance to member countries in their efforts to disseminate information on human rights and to promote a deeper public awareness of these rights.

We equally recognize the important role that could be played by national institutions in the promotion and protection of human rights

and, in this context, I am pleased to announce the recent establishment of an independent National Commission on Human Rights in Indonesia.

We have noted the proposal to establish the office of a High Commissioner for Human Rights. We believe that this proposal needs further careful study in the context of our overall effort to enhance the efficiency and effectiveness of the United Nations human rights mechanisms so as to avoid duplication of efforts as well as wastage of resources.

Indonesia has always been of the view that the primary objective of international action in the field of human rights is not to indulge in acrimony nor to sit in self-righteous judgment over one another but, together, to enhance the common consciousness of the international community in promoting the observance of these fundamental rights. Indeed, what is needed at this present stage of international developments is not heightened confrontation but rather increased cooperation, compassion and mutual tolerance. We should not try to remake the world in our own image, but we can and should try to make the world a more humane, tolerant, peaceful and equitably prosperous place for all.

In the field of human rights, the concepts, the instruments and the international understandings are already there for us to build upon. This we must continue to nurture so that in time it will be able to bridge the vast diversity of cultures, traditions, and social, economic and political systems in the world today without disregarding any of them or allowing any one of them to dominate the others. Then we shall be able to weave together the three major strands as reflected in the UN Charter- the resolution of conflicts, the promotion of development and observance of human rights- which together compose the precious tissue of lasting peace.

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